

IN THE CIRCUIT COURT OF HENRY COUNTY
ASSOCIATE DIVISION

STATE OF MISSOURI,

Plaintiff,

vs.

IJAZ HUSSAIN,

Defendant.

Case No. 20HE-CR00629

TRANSCRIPT OF PRELIMINARY HEARING
HELD ON APRIL 22, 2022

BEFORE THE HONORABLE HAROLD L. DUMP, II

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1 (Friday, April 22, 2022)

2
3
4 MR. PASSANISE: Your Honor, this is Travis Noble. He'll be lead today.

5
6 JUDGE: All right.

7
8 JUDGE: All right. This is the case of State of Missouri v. Ijaz Hussain,
9 Case No. 20HE-CR00629. I'm Judge Harold Dump sitting in the
10 Associate Division of the Circuit Court of Henry County,
11 Missouri. We are here today for a preliminary hearing. State of
12 Missouri appears by Prosecuting Attorney Richard Shields. The
13 Defendant appears in person and with Attorney Joe Passanise
14 and, I'm sorry. Mr. Noble.

15
16 MR. NOBLE: Yes, Your Honor. Travis Noble.

17
18 MR. PASSANISE: Yes, Your Honor.

19
20 JUDGE: Travis Noble. All right. State of Missouri has indicated they are
21 ready to proceed. Defendant has indicated he's ready to
22 proceed. Mr. Shields, you may proceed.

23
24 MR. SHIELDS: Well, before I proceed with calling witnesses and presenting
25 evidence, I was going to inquire of counsel about the possibility
26 of any stipulations to fact. I hadn't spoken to Mr. Noble at all.
27 but I also did have another, a couple of other issues that I
28 wanted to raise before the Court in the form of kind of a Frye
29 proceeding. Because there had been a plea offer made in this
30 case for the Defendant to have the opportunity to plead guilty to
31 a misdemeanor charge. And I was going to ask the Court to
32 inquire of the Defendant about his knowledge of that plea offer.

33
34 And then, also -- I wanted to raise an issue about a possible
35 conflict of interest by counsel in this case. So, I guess to start
36 out with, the discussions that I have had with Mr. Passanise --
37 and again, I've never spoken to Mr. Noble that I can recall, nor
38 do I believe we ever met. Have we met or?

39
40 MR. NOBLE: No.

41
42 MR. SHIELDS: I don't -- I didn't think that we had had any correspondence. I've
43 been dealing with Mr. Passanise, and the -- and the emphasis
44 has been pretty much 100 percent on the Defense's contention

1
2 JUDGE: -- subjective intention, it will be as a requirement.

3
4 MR. SHIELDS: I'll withdraw the question.

5
6 JUDGE: Okay.

7
8 MR. SHIELDS: I have nothing further.

9
10 JUDGE: Recross?

11
12 MR. NOBLE: Nothing further.

13
14 JUDGE: I have no other -- I have no questions for you, sir. If this witness
15 is under subpoena, is he free to come and go?

16
17 MR. SHELDS: Well, I prefer that he stick around out in the hallway because I'd
18 want to speak to him and then, would you speak Mr. Canavon
19 in, please?

20
21 JUDGE: Sir, if you would, please step forward and raise your right hand.

22
23 (Witness sworn.)

24
25 JUDGE: Have a seat. Mr. Shields.

26
27 DIRECT EXAMINATION BY MR. SHIELDS:

28
29 MR. SHIELDS: Thank you, Judge. Would you tell the Court your name, please?

30
31 MR. CANAVON: My name is Cody Canavon.

32
33 MR. SHIELDS: Where are you employed?

34
35 MR. CANAVON: I work for the Missouri Gaming Commission.

36
37 MR. SHIELDS: And what's your position with the Missouri Gaming
38 Commission?

39
40 MR. CANAVON: I'm an electronic gaming device specialist.

41
42 MR. SHIELDS: And what does an electronic gaming device specialist do?

43
44 MR. CANAVON: We're responsible for regulating casino electronic gaming

1 equipment, slot machines, shufflers, accounting systems; all the
2 various aspects of that. Investigating customer complaints and
3 disputes and issues with non-functioning devices.

4
5 MR. SHIELDS: Okay. Now, slot machine. What is a slot machine?

6
7 MR. CANAVON: A slot machine? Basically, a device that -- it's just a regulated
8 casino environment in the State of Missouri that you can place
9 money into, and it will counter, or it will convert those into a
10 credit on the device. You can select a game if that's what it will
11 do, select a wager, place that wager and then the game will
12 provide an outcome -- winning or losing. And then, if you so
13 choose, you can cash out and get currency for that.

14
15 MR. SHIELDS: Okay. And -- and are those gambling device?

16
17 MR. CANAVON: Yeah.

18
19 MR. SHIELDS: Slot machines?

20
21 MR. CANAVON: Yeah.

22
23 MR. SHIELDS: Okay. And you said they're in regulated casinos; is that right?

24
25 MR. CANAVON: Correct.

26
27 MR. SHIELDS: Have you had the occasion to be involved in some
28 investigations regarding slot machines that are not in regulated
29 casinos?

30
31 MR. CANAVON: We've investigated -- yeah, what were believed to be, as you
32 call it -- we call them gray gaming devices. We don't
33 necessarily call them slot machines. But the gray devices that
34 have been found around the state. Yes.

35
36 MR. SHIELDS: Okay. Is that essentially what they are, though?

37
38 MR. CANAVON: They -- they have a similar functionality. Yes. You place money
39 in them and pick a game, place a wager and cash out of them.

40
41 MR. SHIELDS: Okay. Look -- before I go on to talking about these particular
42 machines, you indicated that you have -- you -- you investigate
43 complaints. Is that complaints about the machines that are in
44 casinos, machines that are outside casinos or both?

1
2 MR. CANAVON: My staff are charged with investigating complaints inside
3 casinos. I believe that there are complaints that are directed to
4 our organization about things outside of the casino. But they are
5 referred to the Missouri State Highway Patrol.

6
7 MR. SHIELDS: Okay. And what sorts of complaints are those?

8
9 MR. CANAVON: Those are generally with these gray gaming devices, locations
10 and -- and issues that people have with them.

11
12 MR. SHIELDS: Okay. So, the -- the slot machines that are in the casinos, what
13 sort of complaints do you get about those?

14
15 MR. CANAVON: A good number of them are about not winning anything; been
16 playing for a considerable amount of time and not winning
17 enough to be satisfied. They want to be investigated for those
18 reasons.

19
20 MR. SHIELDS: Is it the expectation of these complainants that they were
21 playing to -- to win some money?

22
23 MR. CANAVON: Yeah.

24
25 MR. SHIELDS: Did any of them complain about the colors of the fruit that's
26 spinning around or not being --?

27
28 MR NOBLE: Judge -- Judge -- I would object as to relevance about gaming
29 devices of casinos unless you want it's relevant to whether or
30 not these are gaming devices?

31
32 MR. SHIELDS: Well, it's a state's contention that these are essentially the same
33 thing. I mean, describing them as gray machines. But I'll get
34 into some -- I'll -- I'll withdraw that question for now. But I'll
35 come back to it.

36
37 MR NOBLE: Hold on. You say that it's the state's contention they are the
38 same thing? I'll -- then I'll withdraw my objection. I'll let you
39 inquire about that.

40
41 MR. SHIELDS: Well, we're not on the record for one. And that's not exactly
42 what I said. But --

43
44 MR. NOBLE: That is what you said, and we are on the record, aren't we?

1
2 MR. SHIELDS: It's not a record proceeding, but --

3
4 MR. NOBLE: Huh?

5
6 MR. SHIELDS: -- whatever.

7
8 JUDGE: Move forward.

9
10 MR. SHIELDS: So, are you familiar with Clinton Convenience Store here in
11 Henry County?

12
13 MR. CANAVON: Yes.

14
15 MR. SHIELDS: Have you been there before?

16
17 MR. CANAVON: Yes.

18
19 MR. SHIELDS: When were you there?

20
21 MR. CANAVON: I was in September of 2019.

22
23 MR. SHIELDS: Why were you there?

24
25 MR. CANAVON: I was there to evaluate some devices that had been identified by
26 the Missouri Highway Patrol.

27
28 MR. SHIELDS: And some devices; what sort of devices are they?

29
30 MR. CANAVON: These gray gaming devices.

31
32 MR. SHIELDS: Okay. And when you say a gray gaming device, could you
33 describe what that is?

34
35 MR. CANAVON: The machines, the vast majority of them have been these gray
36 cabinet, although they tend to be more black cabinet nowadays.
37 They were a gray cabinet device that had a digital display that
38 had reels on it, like a slot machine in a casino. You could place
39 money in them, select your game, select a wager, play the
40 game where you having winning or losing outcome, cash out,
41 take that ticket up to the counter and redeem it for cash.

42
43 MR. SHIELDS: Okay. And those -- those types of machines were seized by the
44 highway patrol at the Clinton Convenience Store in 2019?

1
2 MR. CANAVON: Yes.

3
4 MR. SHIELDS: Are you familiar with their investigation then of some machines
5 that were taken in -- in 2020?

6
7 MR. CANAVON: I'm aware of it. I was not involved in that investigation.

8
9 MR. SHIELDS: Okay But you're aware of the types of machines that were
10 taken in -- in 2020; is that right?

11
12 MR. CANAVON: They were described as being the same type of machines. Yes.

13
14 MR. SHIELDS: Okay. Well, let's talk about those games in general. What is a
15 pre-reveal button? Have you heard that terminology before?

16
17 MR. CANAVON: Yes.

18
19 MR. SHIELDS: Could you explain to the Court what that means?

20
21 MR. CANAVON: The pre-reveal button on the machine that I investigated in
22 2019, was an option for a player to get a peak at what the
23 outcome of the next play was going to be in credits, in currency.
24 So, it will tell you if you are going to win or lose.

25
26 MR. SHIELDS: Okay. And the instruments or machines that were taken in
27 2019, did they have those?

28
29 MR. CANAVON: Yes.

30
31 MR. SHIELDS: And the ones that were taken in 2020, did they have those as
32 well?

33
34 MR. CANAVON: I can't say for sure. I had not put hands on those devices. If
35 they were -- if they were described -- the way they were
36 described, they would have it.

37
38 MR. SHIELDS: Okay. Well, I'll represent to you that -- that the Sergeant from
39 the Highway Patrol that just testified, essentially said that they
40 were the same kind of machines. So, the pre-reveal button,
41 does -- does that change the Gaming Commission's opinion
42 about whether or not those are a gambling device?

43
44 MR. CANAVON: The Gaming Commission doesn't necessarily hold an opinion

1 on-- on how these are classified. We are just providing
2 assistance to prosecutors or any counties that want it to explain
3 what the device is capable of doing.
4

5 MR. SHIELDS: All right. Well, let's talk about what the capable -- what these
6 pre-reveal type of games are capable of doing and how they
7 operate. Is it your understanding that the use of a pre-reveal
8 button -- well, let me -- back up. A slot machine, you've
9 explained how that works. These machines that you're talking
10 about that you've described as gray market machines. Do they
11 operate similar to a slot machine?
12

13 MR. CANAVON: In the basic functions of them, yes. I mean, you place money in
14 them, you place a wager, you (indiscernible)[14:40:46] that
15 creates an entertaining display and (indiscernible)[14:40:52] an
16 outcome.
17

18 MR. SHIELDS: Okay. Do you know what a random number generator is?
19

20 MR. CANAVON: I do.
21

22 MR. SHIELDS: Does that make any difference of whether or not one of these
23 gray machines has a random number generator in it?
24

25 MR. CANAVON: It -- in a casino environment, a random number generator is
26 something that we would see in a slot machine. Yes.
27

28 MR. SHIELDS: Okay. Now, these gray market machines, do they have a set
29 number of potential outcomes?
30

31 MR. CANAVON: Yes.
32

33 MR. SHIELDS: How many, typically, possible outcomes are there?
34

35 MR. CANAVON: I believe it's around 100,000 on each game that's been
36 (indiscernible) (14:41:35).
37

38 MR. SHIELDS: Okay. So, does -- does a player, if a player wants to play the
39 game for purposes of winning some money -- well, let me ask
40 you this. Do these games as you understand them, provide any
41 display other than just numbers or pieces of fruit or whatever is
42 spinning round and round?
43

44 MR. CANAVON: No. Just symbols and bars, numbers, whatever they have

1 chosen to use for their pay table as far as to determine winning,
2 losing outcomes. It's.
3
4 MR. SHIELDS: Okay. Is that what slot machines in a casino do as well?
5
6 MR. CANAVON: Yes.
7
8 MR. SHIELDS: Do people go to a casino to play slot machines just for the
9 entertainment value of watching those things spin around?
10
11 MR. NOBLE: Objection, Your Honor. He -- he doesn't know why people play.
12
13 MR. SHIELDS: Well, I think it's common sense, Judge. But.
14
15 JUDGE: Sustained.
16
17 MR. SHIELDS: Well, I think I asked you earlier, did -- was there ever any
18 complaint that you ever heard about the sufficient number of
19 pieces of fruit or the colors of them not being entertainment
20 enough?
21
22 MR. CANAVON: Not -- not specifically not entertaining. No.
23
24 MR. SHIELDS: Okay. So, these machines, how long do -- does -- does this
25 display last? Is it minutes and minutes, or is it just a few
26 seconds, typically?
27
28 MR. CANAVON: On a spin?
29
30 MR. SHIELDS: Yes.
31
32 MR. CANAVON: As generally, just a few seconds.
33
34 MR. SHIELDS: Okay. Is that something you find, would find entertaining?
35
36 MR. CANAVON: Myself?
37
38 MR. SHIELDS: Yes.
39
40 MR. CANAVON: At one time. I've seen enough of it now, no.
41
42 MR. SHIELDS: Would you pay a dollar for -- without any expectation of winning
43 anything at all just for the entertainment value of watching some
44 pieces of fruit spin around?

1
2 MR. CANAVON: No.

3
4 MR. SHIELDS: At any time?

5
6 MR. CANAVON: Personally, no.

7
8 MR. SHIELDS: Okay. Would your expectation, then, of playing a slot machine
9 would be to win some money?

10
11 MR. CANAVON: That's probably the general reason people go. Yes.

12
13 MR. SHIELDS: Now, these pre-reveal machines, does it, absent the use of the
14 pre-reveal button, does it essentially play just like a slot
15 machine?

16
17 MR. CANAVON: Yeah.

18
19 MR. SHIELDS: So, does the pre-reveal button, is it required for use in order to
20 play the machine?

21
22 MR. CANAVON: No.

23
24 MR. SHIELDS: So, a player can walk in with \$10, put this \$10 in the machine,
25 totally blow by the pre-reveal button and just start playing just
26 like a slot machine --

27
28 MR. CANAVON: Yes.

29
30 MR. SHIELDS: -- is that right?

31
32 MR. CANAVON: Yes.

33
34 MR. SHIELDS: That's all the questions I have.

35
36 JUDGE: Mr. Noble.

37
38 CROSS-EXAMINATION BY MR. NOBLE

39
40 MR. NOBLE: Thank you, Judge. What's your last name?

41
42 MR. CANAVON: Canavon.

43
44 MR. NOBLE: Canavon?

1
2 MR. CANAVON: Yes.

3
4 MR. NOBLE: And who do you work for?

5
6 MR. CANAVON: The Missouri Gaming Commission.

7
8 MR. NOBLE: Okay. And in terms of the Missouri Gaming Commission, your
9 task with your jurisdiction is casinos and Bingo parlors; right?

10
11 MR. CANAVON: Yes.

12
13 MR. NOBLE: That's it; right?

14
15 MR. CANAVON: Yeah.

16
17 MR. NOBLE: Okay. So, you have no enforcement authority outside of those
18 two locations; correct?

19
20 MR. CANAVON: Correct.

21
22 MR. NOBLE: Okay. But you were brought in as an expert, I guess on
23 electronic gaming devices; is that right?

24
25 MR. CANAVON: Yes.

26
27 MR. NOBLE: You're a specialist; right?

28
29 MR. CANAVON: Yes.

30
31 MR. NOBLE: So, you actually know how -- how slot machines in casinos
32 work; right?

33
34 MR. CANAVON: Yeah.

35
36 MR. NOBLE: And the slot machines in casinos are called slot machines;
37 right?

38
39 MR. CANAVON: Correct.

40
41 MR. NOBLE: All right? And these devices that you took out of the store here
42 in Clinton, or that you looked at, those aren't called slot
43 machines. You call them gray gaming devices; right?
44

1 MR. CANAVON: That's a term coined by the organization.
2
3 MR. NOBLE: Right.
4
5 MR. CANAVON: In -- in general use. Yes.
6
7 MR. NOBLE: But I'm saying you guys don't even call them slot machines;
8 right?
9
10 MR. CANAVON: Correct.
11
12 MR. NOBLE: Okay. And within the slot machine in a casino, a person puts
13 their dollar in, they have no idea whether the next play is a
14 winner or a loser; right?
15
16 MR. CANAVON: Correct.
17
18 MR. NOBLE: And they have no way of knowing; right?
19
20 MR. CANAVON: Correct.
21
22 MR. NOBLE: Okay. And they put their dollar in and if the random number
23 generator goes through, stops, maybe it's a winner; maybe it's
24 not; correct?
25
26 MR. CANAVON: Correct.
27
28 MR. NOBLE: All right. The next dollar put in, the random number generator
29 spins again; right?
30
31 MR. CANAVON: Correct.
32
33 MR. NOBLE: And it could land on any number of -- of possibilities, whether it
34 may or may not be a winner; correct?
35
36 MR. CANAVON: Yes.
37
38 MR. NOBLE: Okay. And have you looked at -- did you look at the Torch
39 machines?
40
41 MR. CANAVON: Yes.
42
43 MR. NOBLE: Okay. Torch machines do not have random number generators
44 in them, do they?

1
2 MR. CANAVON: No.
3
4 MR. NOBLE: Okay. They're called a fixed algorithm outcome; right? Have
5 you heard of that?
6
7 MR. CANAVON: I believe so. I believe I've read it. Yes.
8
9 MR. NOBLE: Okay. In other words, within the Torch machine, it actually
10 knows that each position at any point when they're may -- when
11 there will be a payout; right?
12
13 MR. CANAVON: Correct.
14
15 MR. NOBLE: There's nothing random about it; right?
16
17 MR. CANAVON: Right.
18
19 MR. NOBLE: Right. Nothing by chance about when it's going to pay out. It's
20 going to do the exact same every time until it runs back through
21 the sequence; correct?
22
23 MR. CANAVON: Correct.
24
25 MR. NOBLE: All right. And then it goes back through the exact same winning
26 spot. Nothing random about it. Nothing by chance about it;
27 correct?
28
29 MR. CANAVON: Correct.
30
31 MR. NOBLE: Like a -- like a casino slot machine; right?
32
33 MR. CANAVON: Yeah. It --
34
35 MR. NOBLE: Totally opposite.
36
37 MR. CANAVON: -- yes.
38
39 MR. NOBLE: Right. So, these machines, in terms of the way they work,
40 there's nothing similar about them at all in terms of how they pay
41 out. One's a random number generator. The numbers are set
42 sequence. It's the same way every time; right?
43
44 MR. CANAVON: Correct.

1
2 MR. NOBLE: All right. And that's really -- now, we're not talking about the
3 lights that are on the machine or how it's painted or whether it's
4 fruit that spins around or what have it. That's not what makes a
5 good gaming device. It's how it pays out is what makes it a
6 good gaming device; right?

7
8 MR. CANAVON: Consideration, chance and prize.

9
10 MR. NOBLE: Consideration, chance and prize. All right. A person walks into
11 a gas station. They have one dollar. That's all they got. It's a
12 one-dollar minimum play. And the walk up and they hit the
13 number, they hit the pre-reveal button. It says 0.00. They know
14 they've got zero chance of winning on that next play; correct?

15
16 MR. CANAVON: Correct.

17
18 MR. NOBLE: They put their dollar in, hit the button, it's 0.00. At that time, that
19 -- that machine is not a gaming device; correct? There was no
20 chance; right?

21
22 MR. CANAVON: I don't know that I'm qualified to say whether or not that's
23 chance. I think that a player that sees a zero would very much
24 be curious what the next outcome may be.

25
26 MR. NOBLE: I'm talking about this play. Well, they may be curious all they
27 want. That doesn't make it a gaming device. What I'm saying is
28 because there's no chance to it. They got zero chance of
29 winning, do they; correct?

30
31 MR. SHIELDS: Judge, I'm going to object to the compound nature of the
32 question, and.

33
34 JUDGE: He answered it.

35
36 MR. NOBLE: I'll break it down. I'll break it down. So, there has to be some
37 sense of chance for the player to make it a gaming device;
38 right?

39
40 MR. CANAVON: Yes.

41
42 MR. NOBLE: All right. And if the guy knows, he hits the pre-reveal button and
43 it says 0.00, he knows. The machine has told him he has zero
44 chance of winning if he puts a dollar in it; correct?

1
2 MR. CANAVON: Correct.

3
4 MR. NOBLE: All right. If he puts his dollar in, hits the button, 0.00, and he
5 walks out the door. There was zero chance, was there?

6
7 MR. CANAVON: On that play. Correct.

8
9 MR. NOBLE: On that play. Okay. And so, at that time, that machine is not a
10 gaming device under that scenario; correct?

11
12 MR. CANAVON: That's -- that's a court decision.

13
14 MR. NOBLE: You don't have the -- you don't have -- you said there has to be
15 three elements; right?

16
17 MR. CANAVON: Correct.

18
19 MR. NOBLE: And you agree one of them is missing at that point; right?

20
21 MR. CANAVON: I think that the player knows what the outcome is going to be.
22 That's -- yeah, they're making a decision.

23
24 MR. NOBLE: Right. And zero chance. All right? So, let me ask you this. You
25 were saying the next play in the player's mind, they may put a
26 dollar in to get to the next play to maybe take a chance; right?

27
28 MR. CANAVON: I think that's the ultimate goal of any player is the element of
29 chance and the fact --

30
31 MR. NOBLE: Got you.

32
33 MR. CANAVON: -- that they don't know what the next outcome is going to be.

34
35 MR. NOBLE: Well, it's not -- it -- it's not whether or not what the player knows.
36 It's whether they do or don't have a chance; right? You would
37 agree with that; right?

38
39 MR. CANAVON: I think so. I mean, I -- I think in this -- in this environment, the --

40
41 MR. NOBLE: What does that mean; this environment?

42
43 MR. SHIELDS: Judge, I'm going to object. He's interrupted the witness in the
44 middle of his answer.

1
2 MR. NOBLE: I apologize. Go -- I apologize, go ahead. Finish. I'm sorry.

3
4 MR. CANAVON: I think in -- in gaming, in the gaming industry, that players see
5 these machines. They don't know the inside and outside like I
6 do or like somebody who has investigated them would. So, they
7 look at a -- a machine that they can place money in; they can
8 see an entertaining display and may or may not win some
9 money.

10
11 MR. NOBLE: Nowhere in the Missouri statute does it say that; does it?

12
13 MR. CANAVON: No.

14
15 MR. NOBLE: Okay. There's nothing in the Missouri statute as to what makes
16 something a gaming device that talks about the subjective
17 intentions of a player; does it?

18
19 MR. CANAVON: No.

20
21 MR. NOBLE: It's all about the machine; isn't it?

22
23 MR. CANAVON: Yes.

24
25 MR. NOBLE: All right. I know they're trying to fix that right now. But as of the
26 state of the law right now, the subjective intention of the player
27 just doesn't matter as far as the statute is concerned; correct?

28
29 MR. CANAVON: You are correct.

30
31 MR. NOBLE: All right. And then the truth is, they may not know what the
32 internal workings of the machine are. But even then, within the
33 internal working of the machine, there's no chance because
34 here's a pre-set number of when it's going to pay out each time
35 it works with a sequence; right?

36
37 MR. CANAVON: Correct.

38
39 MR. NOBLE: Zero chance; right? It's either going -- not like in a slot machine
40 where you may have a chance because it changes every time;
41 right?

42
43 MR. CANAVON: Yeah.

1 MR. NOBLE: Okay. All right. Did you ever receive a complaint on these
2 machines that were taken from Mr. Hussain's store?

3
4 MR. CANAVON: I don't know if we did or not.

5
6 MR. NOBLE: You don't know. Okay. So, we have no element of the chance
7 with regard to the Torch machines that were taken from Mr.
8 Hussain. And you're saying especially if the pre-reveal button is
9 used; right? Because the player know before they play; right?

10
11 MR. CANAVON: The player would know what the outcome is going to be.

12
13 MR. NOBLE: Okay. And then, also, even if they didn't use the pre-reveal
14 button. They just walk up and put their dollar in, there's no
15 actual sense of chance because it's a pre-determined number
16 as to when it's going to pay out; right? Based on the sequence;
17 right?

18
19 MR. CANAVON: Based on the sequence. Yeah.

20
21 MR. NOBLE: I have no further questions. Thank you very much.

22
23 REDIRECT EXAMINATION BY MR. SHIELDS

24
25 MR. SHIELDS: But the player can't influence that by standing in a particular way
26 or pushing the button in a particular way; is that right?

27
28 MR. CANAVON: Correct.

29
30 MR. SHIELDS: There's not a skill involved; right?

31
32 MR. CANAVON: No. Not a skill.

33
34 MR. SHIELDS: And past round one, the player doesn't really know what the
35 outcome is going to be?

36
37 MR. CANAVON: Correct.

38
39 MR. SHIELDS: So, okay. That's all there is.

40
41 RECROSS-EXAMINATION BY MR. NOBLE

42
43 MR. NOBLE: Just briefly. If the player could configure, and -- and change it
44 some way, then it would make it a potentially, a game of chance

1 because they're changing the outcome. The player has no way
2 of doing that, do they? It's only the set number of -- of payouts
3 at that -- at that specific number of plays; right?
4
5 MR. CANAVON: I'm not sure what you mean by the player influencing.
6
7 MR. NOBLE: In other words, the -- well, when he asked you couldn't the
8 player influence it, you said no. What did -- what did you mean
9 by that?
10
11 MR. CANAVON: In the skill base, he may even have the ability to change where
12 a symbol lands after --
13
14 MR. NOBLE: Got you. And -- and this is not a game of skill. You would agree
15 with that; right?
16
17 MR. CANAVON: Correct.
18
19 MR. NOBLE: Okay. All right. And -- and the pre-reveal button takes all of that
20 guesswork out for both the subjective intention of the player;
21 right?
22
23 MR. CANAVON: Sure.
24
25 MR. NOBLE: And then with -- then even forgetting the subjective intention of
26 the player, there's no sense of chance within the algorithm
27 within the machine because it's a set payout each time; right?
28
29 MR. CANAVON: Correct.
30
31 MR. NOBLE: And, in fact, if a person were to sit and watch the machine and
32 they could figure out it's going to be a hit on this play, it's going
33 to be a hit on this play, they could potentially do that. Because it
34 runs through the same sequence every time; right?
35
36 MR. CANAVON: Correct.
37
38 MR. NOBLE: Okay. All right. Taking out the -- the possibility of any chance;
39 right?
40
41 MR. CANAVON: If they were -- yeah. If they --
42
43 MR. NOBLE: Yeah.
44

1 MR. CANAVON: -- figured it out. Yeah.

2
3 MR. NOBLE: All right. So, under the -- under the definition of the statute, not
4 a gaming device based on those two issues. Right?

5
6 MR. CANAVON: As the -- the definition of the -- of a gaming device, as you say, if
7 you say it has no chance, it would not be. Yes. That's correct.

8
9 MR. NOBLE: And you've agreed it doesn't have a chance if you use both the
10 pre-reveal button and because it's a set, pre-set determinative
11 outcome; right? You've said that.

12
13 MR. CANAVON: I think I would say that. Yes. If you're using the pre-reveal
14 button, that on that play, that particular play (indiscernible)
15 [14:54:24].

16
17 MR. NOBLE: Right. Okay. All right. I have no further questions.

18
19 FURTHER REDIRECT BY MR. SHIELDS

20
21 MR. SHIELDS: But to get past that particular play, in order to have a chance of
22 winning, you have to continue playing.

23
24 MR. CANAVON: Correct.

25
26 MR. SHIELDS: And you mentioned that there was 100,000 possibilities. So, in
27 order to predict the outcome, someone would have to be able to
28 memorize 100,000 outcomes.

29
30 MR. CANAVON: Yes.

31
32 MR. SHIELDS: Nothing further.

33
34 FURTHER RECROSS-EXAMINATION BY MR. NOBLE

35
36 MR. NOBLE: Just briefly. That's only for that individual to know whether or
37 not they're going to win; right? They'd have to memorize all
38 that; right?

39
40 MR. CANOVAN: Yes.

41
42 MR. NOBLE: All right. But taking the pre-reveal button out and taking their
43 ability to memorize. When you play those machines, those
44 machines are only going to have very specific outcomes at very

1 specific sequences as that are pre-set in the algorithm; correct?
2
3 MR. CANOVAN: Correct.
4
5 MR. NOBLE: So, there's no chance --
6
7 MR. SHIELDS: Judge, I -- I think this has been asked and --
8
9 MR. NOBLE: -- that you could win if --
10
11 MR. SHIELDS: -- answered enough times. I mean.
12
13 MR. NOBLE: Well, that's a follow-up based on what you just asked.
14
15 JUDGE: Continue.
16
17 MR. NOBLE: Thank you. In other words, even taking the pre-reveal button
18 out and even taking the person's subjective intention out to try to
19 continue to play, there's no chance -- it's not left to chance, if
20 you will, that they're going to win because it's predetermined as
21 on which spots within the sequence is going to hit, which is just
22 unlike a casino slot machine; correct?
23
24 MR. CANAVON: Correct. I think, though, with --
25
26 MR. NOBLE: Thank you.
27
28 MR. CANAVON: -- to expand on that, I think you have to take into consideration,
29 and you were right, the -- the law itself does not specifically call
30 out the player. But the player's -- what the player is seeing is --
31 is important in that they don't know. You know, in a casino
32 environment, they don't know the outcome. In this environment,
33 they don't -- they may know the outcome of this game, but they
34 will not know the outcome of the next.
35
36 MR. NOBLE: If the third play is not going to -- if the third pull, if you will, or the
37 press of a button, because of the algorithm isn't going to pay
38 out, then they have no chance of winning. Whether they know
39 that or not doesn't change that, does it?
40
41 MR. CANAVON: It does not.
42
43 MR. NOBLE: Right. And so, what we're talking about whether or not this is an
44 illegal gambling device, not an illegal gambler; right?

1
2 MR. CANAVON: Correct.

3
4 MR. NOBLE: I have no further questions.

5
6 FURTHER REDIRECT EXAMINATION BY MR. SHIELDS

7
8 MR. SHIELDS: Did you testify for the State in the Platte County case?

9
10 MR. CANAVON: Yes.

11
12 MR. SHIELDS: And that was a different company; is that right?

13
14 MR. CANAVON: (Indiscernible)[14:56:36]. Yes.

15
16 MR. SHIELDS: But it's essentially the same kind of machines?

17
18 MR. CANAVON: Yes.

19
20 MR. SHIELDS: Nothing further.

21
22 FURTHER RECROSS-EXAMINATION BY MR. NOBLE

23
24 MR. NOBLE: Briefly. Platte County case. There were differences in the
25 machine, weren't there? You had to put money in to be able to
26 get to the pre-reveal button; right?

27
28 MR. CANAVON: You did have to place money. It had -- the settings were
29 configured a little differently for certain.

30
31 MR. NOBLE: Totally different configurations; right? So, they weren't the same
32 machines, were they?

33
34 MR. CANAVON: Exactly. No.

35
36 MR. NOBLE: No. No further questions.

37
38 MR. SHIELDS: Nothing further.

39
40 JUDGE: I have no questions for you, sir. Thank you. You may step
41 down. Any other evidence on behalf of the State?

42
43 MR. SHIELDS: No, Your Honor. Well, given the -- I would like to ask the Court
44 to take judicial notice of that Platte County case that I just made

1 COUNTY OF WEBSTER)
2) SS
3 STATE OF MISSOURI)
4

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